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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,554	06/26/2003	Robert M. Brustowicz	CHD-006	5300

7590 01/25/2007  
David Prashker  
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Magnolia, MA 01930

EXAMINER
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MCCORKLE, MELISSA A

ART UNIT	PAPER NUMBER
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3763

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/606,554

Applicant(s)

BRUSTOWICZ, ROBERT M.

Examiner

Melissa A. McCorkle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6, 9, 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6, 9, 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ducharme et al (5,000,740). Ducharme discloses applicant's invention substantially as claimed. In particular, he discloses the improvement of an on-demand needle retaining and locking mechanism comprising a needle safety container 22 which is radially rotatable by hand on-demand, and has a sized solid tab member 34 disposed at and extending radially from said open front end at an aligned position [FIG 3-4]; a needle housing which is adapted for slidable axial movement at will over said rotatable needle safety container, and has a slideable hollow configured spool [FIG 9B] section joined to the front end of the needle housing for on-demand engagement with said solid tab member of said needle-safety container, said hollow configured spool section comprising a central cavity [NEAR 48], open front and rear ends adapted for passage there through by a piercing needle, a flanged rib 86, a tab-engagement segment 42, and at least one notch within said tab engagement section 94, wherein said configured spool section is alignable at will with and can be engaged and disengaged from said solid tab member [COL 4 LINE 40-50] of said rotatable needle safety container on-demand; wherein said configured spool section includes a pair of sized notches 94.

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3. Ducharme discloses the improvement of an on-demand needle retaining and locking mechanism comprising a needle-safety container 22 which is radially rotatable by hand on-demand, and has a sized solid tab member 34 disposed at and extending radially from said open front end at an aligned position; a hollow collar 80 which is rotatably attached to the open front end of the needle safety container, presents at least one discrete wall of preset dimensions and configuration, and a central void space 78, has open front and rear ends adapted for passage there through of the tip of a piercing needle, and has a solid tab member 34 disposed on and extending radially from said rotatable collar at an aligned position, and a needle housing which is adapted for slidable axial movement at will over said rotatable needle safety container, and has a slideable configured spool section [FIG 9B] joined to the front end of the needle housing for on demand engagement with said solid tab member of said rotatable collar 80, said configured spool section comprising a central cavity, open front and rear ends adapted for passage there through by a piercing needle, a flanged rib 86, a tab-engagement segment 42, and at least one notch disposed within said tab engagement segment 94, wherein said configured spool section is alignable at will with and can be engaged by and disengaged from said solid tab member of said rotatable collar on demand; wherein said configured spool section includes a pair of sized notches 94.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa A. McCorkle whose telephone number is (571) 272-2773. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melissa A McCorkle  
Examiner  
Art Unit 3763



1/20/07

  
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